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 ELI LILLY AND COMPANY

17 UNITED STATES DISTRICT COURT  
 18 NORTHERN DISTRICT OF CALIFORNIA  
 19 SAN FRANCISCO DIVISION

20 STATE OF CALIFORNIA *ex rel.* JAYDEEN ) Case No. 07-cv-04911-SI  
 21 VICENTE and JAYDEEN VICENTE )  
 22 Individually, ) Assigned to: Hon. Susan Illston  
 )  
 23 Relator, ) **DECLARATION OF ANDREW R. ROGOFF**  
 ) **IN SUPPORT OF DEFENDANT ELI LILLY**  
 24 v. ) **AND COMPANY'S *EX PARTE* MOTION**  
 ) **TO PLACE DOCUMENTS UNDER SEAL**  
 25 )  
 26 ELI LILLY AND COMPANY, )  
 )  
 27 Defendant. )  
 )

1 I, Andrew R. Rogoff, declare as follows:

2 1. I am an attorney with Pepper Hamilton LLP. I will be applying for *pro hac*  
3 *vice* admission to this court to represent defendant Eli Lilly and Company ("Lilly") in the above-  
4 captioned matter. I make this declaration in support of Lilly's *Ex Parte* Motion to Place Documents  
5 Under Seal.

6 2. I am one of the attorneys representing Lilly in the matter captioned *In Re*  
7 *Zyprexa Products Liability Litigation*, MDL No. 1596 (the "MDL"), in the United States District  
8 Court for the Eastern District of New York. As such, I have personal knowledge of the procedures  
9 implemented in the MDL to protect Lilly's confidential materials and the documents subject to such  
10 protection.

11 3. Attached as Exhibit A hereto is a copy of one of the protective orders entered  
12 in the MDL ("CMO-3").

13 4. Hersh & Hersh is counsel to several plaintiffs in the MDL and a signatory to  
14 CMO-3.

15 5. On October 2, 2007, I asked Rachel Abrams, one of the attorneys at Hersh &  
16 Hersh representing Relator, to enter into a stipulation that certain confidential materials attached to  
17 the Complaint in this matter be placed under seal. She refused to enter into such a stipulation.

18 6. Ms. Abrams told me that her law firm received the exhibits to the Complaint  
19 from Ms. Vicente, and not from the production of documents by Lilly pursuant to CMO-3.

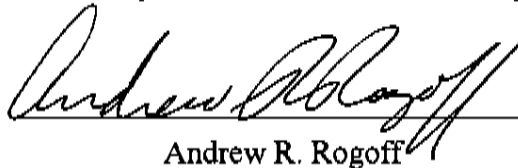
20 7. The following documents attached to the Complaint are essentially the same  
21 as documents produced in the MDL and subject to CMO-3: (a) Exhibit A, pages 3 and 5; (b) Exhibit  
22 D; (c) Exhibit E; (d) Exhibit F; (e) Exhibit G; and (f) Exhibit H.

23 8. In my capacity as counsel for Lilly, I have also received true and correct  
24 copies of certain documents relating to Relator Jaydeen Vicente, including Exhibits B and C  
25 attached hereto.

26 9. Attached as Exhibit B is a true and correct copy of the "Employee  
27 Confidentiality and Invention Agreement" signed by Jaydeen Vicente on July 16, 2001. This  
28 document is confidential, and Lilly is also seeking to place it under seal.

1           10. Attached as Exhibit C is a true and correct copy of an e-mail sent by Jaydeen  
2 Vicente on July 24, 2003 to Jill Schein and Charmayne Rauch.

3           I declare under penalty of perjury under the laws of the United States that the  
4 foregoing is true and correct. Executed on this 10<sup>th</sup> day of October 2007 at Philadelphia,  
5 Pennsylvania.

6   
7 Andrew R. Rogoff